

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mark J. E.,

Civ. No. 20-2047 (PAM/JFD)

Plaintiff,

v.

MEMORANDUM AND ORDER

Kilolo Kijakazi, Acting Commissioner of
Social Security,

Defendant.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge John F. Docherty dated December 7, 2021. (Docket No. 31.) The R&R recommends granting in part Plaintiff’s Motion for Summary Judgment (Docket No. 16), denying the Commissioner’s Motion for Summary Judgment (Docket No. 21), and remanding the case to the Social Security Administration under sentence four of 42 U.S.C. § 405(g) for further proceedings. The Commissioner filed a notice of no objections. (Docket No. 32.) Plaintiff did not file any objections and the time to do so has passed. D. Minn. L.R. 72.2(a)(1).

This Court must review de novo any portion of an R&R to which specific objections are made; in the absence of objections, the Court reviews the R&R only for clear error. 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.2(b); see also Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir. 1996) (noting that district court need only review un-objected-to R&R for clear error). The Court has reviewed the R&R and finds no error, clear or otherwise, in the Magistrate Judge’s decision.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The Report and Recommendation (Docket No. 31) is **ADOPTED**;
2. Plaintiff's Motion for Summary Judgment (Docket No. 16) is **GRANTED** in part and **DENIED** in part;
3. The Commissioner's Motion for Summary Judgment (Docket No. 21) is **DENIED**; and
4. The Commissioner's decision is **REVERSED** and the case **REMANDED** to the Commissioner under sentence four of 42 U.S.C. § 405(g) for formulation of Plaintiff's residual functional capacity that reflects consideration of all severe and non-severe impairments as found at earlier steps in the decision of the Administrative Law Judge, and reconsideration of the hypotheticals posed to the vocational expert, if necessary.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: Wednesday, December 22, 2021

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge